THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.20415 of 2006

Dated: 29-09-2006

Between:

S. Dhana Reddy.

..... PETITIONER

AND

The Government of A.P., Hyderabad and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.20415 of 2006

ORDER:

The Government of Andhra Pradesh issued a notification under the Land Acquisition Act, 1894 (the Act, for brevity) vide their orders in G.O.Rt.No.589 dated 03-03-1995 and the same was published in the official Gazette MBNR No.9 dated 13-03-1995. The Government proposed to acquire an extent of Acs.85-15 guntas situated at Thimmapur Village, Itikyal Mandal in Mahabubnagar District for establishment of Andhra Pradesh Special Police Battalion at Yerravally X roads. The land admeasuring Acs.4.28 guntas in survey No.496/2 is also one of the items of land, which was sought to be acquired. Be that as it is, the declaration under Section 6 of the Act was issued on 06-03-1995 vide Memo No.618. However, the petitioner, who is the owner of the land in survey No.496/2, filed W.P.No.6966 of 1995 questioning the action of the respondents in proceeding to acquire the land and this Court stayed further proceedings. Therefore, the land acquisition officer, respondent No.2 herein, deleted survey No.496/2 and passed an award in respect of the other lands vide award No.13 of 1998 dated 25-06-1998. Ultimately said writ petition was allowed on 01-10-2002 and the declaration under Section 6 of the Act was quashed. It is the case of the petitioner that even after expiry of one year thereafter, another declaration was issued and award was not passed under Section 11-A of the Act. The petitioner, therefore, filed instant writ petition seeking a writ of Mandamus declaring that the notification under Section 4(1) of the Act dated 13-03-1995 is lapsed.

The matter was heard at preliminary stage yesterday and the learned Assistant Government Pleader for Revenue (Land Acquisition) sought time for getting instructions. Today, when the matter is called, he has placed before this Court a letter dated 28-09-2006 addressed by respondent No.2, which would show that the Government of Andhra Pradesh approved the proposals to withdraw the draft notification to the extent of Ac.1.04 ½ guntas in survey No.496/2 vide G.O.Rt.No.1489 Home (PSC) Department dated 06-10-2004 and that the draft declaration to the extent of Acs.3.23 ½ guntas is still awaited. From this it becomes very clear that even as on 28-09-2006, the Government did not issue declaration under Section 6(1) of the Act. Even though the earlier writ petition filed by the petitioner, being W.P.No.6966 of 1995, was allowed on 01-10-2002 setting aside the declaration under Section 6(1) of the Act, declaration has not been published as required under clause (ii) of proviso to Sub-Section (1) of Section 6 of the Act, as a result of this notification issued under Section 4(1) of the Act lapsed. Indeed as rightly pointed out by the learned counsel for the petitioner, an

award also cannot be passed at this point of time.

In the result, writ petition is allowed. However, this order does not preclude the Government to initiate fresh proceedings if the land of the petitioner still requires for public purpose. No costs.

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(**V.V.S.RAO, J**)

29th September, 2006

ghn